

Attorney Docket No. P12383
Customer Number 27045

REMARKS/ARGUMENTS

1.) Detailed Action

The Examiner noted that line numbers in the claims were not in a preferred format. It is respectfully submitted that this response is in accordance with the current rules regarding amendment practice. If the Examiner believes any part of this response is not in conformance, the Examiner is invited to telephone the Applicant's attorney at the number below.

2.) Claim Amendments

The Applicant has amended claims 1, 8, 12, 19, 31; and claims 3, 23-30, 33 have been canceled without prejudice. Accordingly, claims 1-2, 4-22, and 31-32 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

3.) Claim Rejections – 35 U.S.C. § 102(b)

The Examiner rejected claims 1-2, 4-5, 6, 8-9, 11, 12-13, 15-16, 17, 25-28, 29 and 31-33 under 35 U.S.C. § 102(b) as being anticipated by NLNR: Engineering Services, 1999 (NLNR). In order to expedite allowance of this application, the Applicant has canceled claims 25-29 and 33 without prejudice. Therefore, this rejection with respect to these claims is deemed to be moot. The Applicant has amended claims 1, 8, 12 and 31 to better define the intended scope of the claimed invention. The Examiner's consideration of the amended claims is respectfully requested. To the extent that the Examiner still maintains this rejection, the Applicant respectfully traverses this rejection.

For instance, amended claim 1 states:

1. A method for dynamically controlling data flows to a terminal in a communications system which handles real-time application flows and non real-time application flows, said data flows being carried over at least one communications terminal with a predetermined limited bandwidth and with use of at least one protocol, said method comprising the steps of:
receiving, in the terminal, a set-up message for a real-time application communications session, wherein the set-up message

Attorney Docket No. P12383
Customer Number 27045

contains encoding information indicating the encoding method to be used by a sender;

determining a required bandwidth for an incoming data flow for the real-time application using the encoding information;

controlling, before real-time transmission of data flows, a bandwidth usage on the communications connection of at least one data flow to a non real-time application on the terminal by manipulating at least one protocol parameter wherein the at least one protocol parameter is determined using the required bandwidth.

It is respectfully submitted that nothing in NLANR teaches a dynamic method of controlling flows where the required bandwidth is determined using the encoding information and where the controlling occurs before real time data flows begin. The Applicant acknowledges that TCP contains some dynamic flow controls. However, as stated in the Applicant's specification, prior art dynamic flow controls result in additional delays because the data flows are controlled via a negotiation process that occurs during the transmission of data flows. It is respectfully submitted that NLANR just refers to this prior art flow control. However, amended claim 1 makes clear that data flows are controlled *before real-time transmission of data flow*. This is not taught by NLANR.

The Applicant, therefore respectfully requests that the Examiner withdraw the §102 rejection of claim 1. Claims 8, 12 and 31 have also been amended and are patentable for similar reasons. Thus, the Examiner's consideration of these claims is also requested.

Claims 2, 4-6, 9, 11, 13, 15-17, and 32 depend from the amended independent claims and recite further limitations in combination with the novel elements of the independent claims. Therefore, the allowance of the dependent claims is respectfully requested.

4.) Claim Rejections – 35 U.S.C. § 103(a)

The Examiner rejected claims 3, 10, 14, 19-22, 23 and 24 under 35 U.S.C. § 103(a) as being unpatentable over NLANR, in view of Multiparty Multimedia Session, Oct., 1999 (mmusic). In order to expedite allowance of this application, the Applicant has canceled claims 3, 23-24 without prejudice. Therefore, this rejection with respect to these claims is deemed to be moot. The Applicant has amended the independent claim

Amendment - PAGE 11 of 13
EUS/J/P/04-8874

Attorney Docket No. P12383
Customer Number 27045

19 and the other independent claims for which claims 10, 14, 20-22 depends. The Examiner's consideration of the amended claims is respectfully requested.

Specifically, it is believed that the combination of NLANR and mmusic does not teach determining a required bandwidth for an incoming data flow for the real-time application using the encoding information. Although mmusic may teach the use of encoding information, mmusic does not appear to teach using encoding information for the purposes of determining a required bandwidth. In any event, the combination of NLANR and mmusic still does not teach dynamically controlling the bandwidth before real-time transmission of data flows. Because not all claim elements are taught by the combination of NLANR and mmusic, the Applicant respectfully requests that this rejection be withdrawn.

Claims 10, 14, 20-22 depend from the amended independent claims and recite further limitations in combination with the novel elements of the independent claims. Therefore, the allowance of claims dependent claims is respectfully requested.

The Examiner rejected claims 7, 18 and 30 under 35 U.S.C. § 103(a) as being unpatentable over NLANR, in view of Official Notice. Claim 30 has been canceled without prejudice. Therefore, this rejection with respect to these claims is deemed to be moot.

If the Examiner is maintaining his use of Official Notice in light of the amended claims, then the Applicant respectfully objects to the use of Official Notice. As the Examiner is aware, if the Applicant does not object to the use of Official Notice in this response, it may be deemed that the Applicant has waived such use.

Under MPEP § 2144.03, Official Notice may only be taken of "facts outside of the record which are capable of instant and unquestionable demonstration as being 'well-known' in the art." When a rejection is based on facts within the personal knowledge of the Examiner, the facts must be as specific as possible, and the reference must be supported, when called for by the Applicant, by an affidavit of the Examiner, which may be subject to explanation by the Applicant. See also 37 CFR 1.104(d)(2). Pursuant to 37 CFR 1.104(d)(2), the Applicant respectfully requests the Examiner provide such supporting facts and evidence in the form of an affidavit, so that, if necessary, the Applicant may explain the reference – especially in light of a motivation analysis.

Amendment - PAGE 12 of 13
EUS/J/P/04-8974

Attorney Docket No. P12383
Customer Number 27045

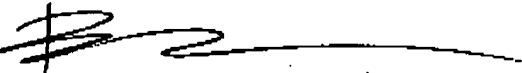
CONCLUSION

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for all pending claims.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,

Date: 11-16-2004



Bill R. Naifeh
Registration No. 44,962

Ericsson Inc.
6300 Legacy Drive, M/S EVR 1-C-11
Plano, Texas 75024

(972) 583-2012
bill.xb.naifeh@ericsson.com